

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

CRAIG YATES,

Plaintiff,

v.

DELANO RETAIL PARTNERS, LLC,
doing business as DELANO'S IGA
MARKET #1; and ARTHUR S. BECKER,
as Trustee of the ARTHUR S.
BECKER REVOCABLE LIVING TRUST,

Defendants.

No. C 10-3073 CW

ORDER STRIKING
OPPOSITION AND
REPLY TO
DEFENDANT'S MOTION
TO STAY AND
SUPPORTING
DECLARATIONS OF
THOMAS E.
FRANKOVICH AND
MICHAEL J.
CHILLEEN (Docket
Nos. 36, 36-1, 38,
and 38-3)

On February 9, 2012, Defendant Arthur S. Becker, Trustee of the Arthur S. Becker Revocable Trust, filed a motion to stay the entire action.

On February 23, 2012, Plaintiff Craig Yates, through counsel, filed an opposition to Defendant's motion and offered the declaration of Thomas E. Frankovich in support thereof. In these materials, Plaintiff disclosed certain items that happened or were said during a court-sponsored mediation session on May 18, 2011.

On March 1, 2012, Defendant filed a reply in support of his motion to stay and offered the declaration of Michael J. Chilleen in support thereof. In these filings, Defendant, among other things, objected to Plaintiff's use of the mediation information, disputed the substance of Plaintiff's disclosure and requested that the Court order Plaintiff's counsel to show cause why he should not be sanctioned for disclosing the mediation information.

Under the Court's Local Rules for Alternative Dispute Resolution (ADR Local Rules), discussions and disclosures made

1 during mediation are presumptively designated as confidential and
2 may not be "disclosed to the assigned judge" or "used for any
3 purpose, including impeachment, in any pending or future
4 proceeding," absent "truly exigent circumstances." ADR Local Rule
5 7-5(a); ADR Local Rule 7-5, Commentary. Plaintiff has not
6 obtained prior court approval to disclose otherwise confidential
7 information and has not provided any legitimate basis for the
8 disclosure of such information without prior approval.

9 Accordingly, the Court STRIKES Plaintiff's Opposition and the
10 Frankovich Declaration, as well as Defendant's Reply and the
11 Chilleen Declaration (Docket Nos. 36, 36-1, 38, and 38-3). Within
12 three days of the date of this Order, the parties shall re-file
13 these documents omitting any reference to material deemed
14 confidential under the ADR Local Rules. The parties may not add
15 additional arguments to these documents.

16 Further, a motion for sanctions may not be presented for the
17 first time in a reply brief. See Civil Local Rule 7-8. If
18 Defendant wishes to pursue sanctions, he shall do so in compliance
19 with ADR Local Rule 2-4, which sets forth the procedures for
20 resolving complaints regarding violations of the ADR Local Rules
21 and provides that such complaints shall not be filed with the
22 undersigned, but shall instead be presented in writing to the ADR
23 Magistrate Judge.

24 IT IS SO ORDERED.

25 Dated: 3/6/2012


CLAUDIA WILKEN
United States District Judge